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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,633	11/27/2001	Yukitoshi Kato	029650-109	8228
7590	08/11/2004		EXAMINER	
Platon N. Mandros BURNS, DOANE, SWECKER & MATHIS, L.L.P. P.O. BOX 1404 Alexandria, VA 22313-1404			NGUYEN, VI X	
			ART UNIT	PAPER NUMBER
			3731	

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/993,633

Applicant(s)

KATO, YUKITOSHI

Examiner

Victor X Nguyen

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-10, 18 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-10, 18 and 21-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Objection

1. Claims 21 and 22 are objected to because of the following informalities:

Claim 21, line 11, recites “inserted” instead of –insertable--, and line 13, recites “increased” instead of –increasable, and after “increasable”, insert-whereby--. Appropriate correction is required.

Claim 21, line 14, recites “being” instead of –is--. Appropriate correction is required.

Claim 22, line 16, recites “inserted” instead of –insertable--, and line 19, recites “increased” instead of –increasable--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3-10 and 22-24 are rejected under 35 U.S.C. 102 (b) as being anticipated by Kerr (U.S. 5,941,896).

Regarding claims 3 and 21-24, Kerr shows in figures 7 and 9, a vascular instrument includes a contact portion (26) which brings into contact with an end of a blood vessel; a supporting portion (12); an operating mechanism (28); and where the contact portion (26) comprises a ring portion that is formed of a wire-like member in the form of a circular ring (20). The ring is supported by the supporting portion, where the operating mechanism (28) increases

Art Unit: 3731

and reduces the diameter of the ring portion, and where the end of the blood vessel is expanded by the operating mechanism. The ring portion is inserted into the blood vessel through the opening of the end of the blood vessel; and where the contact portion is made of a polymeric material (col. 2, lines 30-61). The statement of intended use and other functional statements have been carefully considered but are deemed not to impose any structural limitations on the claims distinguishable over Kerr which is capable of being used as claimed if one desires to do so.

Regarding claims 4 and 5, where the device further includes a regulatory means (20) for regulating the operating mechanism; and where the regulatory means includes an adjustment means (fig. 6).

Regarding claims 6 and 7, The wire member (see fig. 7) is connected to distal end of the supporting portion (12). The diameter of the ring portion is changed by changing the distance between the distal ends of the supporting portion; and where the supporting portion includes intermediate portions (see fig. 7).

Regarding claims 8-9 and 18, wherein the ring portion is changed by changing the length of the wire like member. The length of the wire like member is changed by causing the wire like member to extrude on a distal end of the supporting portion (12); and where a ring (20) is capable of being fitted around a blood vessel.

Regarding claim 10, wherein the contact portion (26) is in the state of having its diameter reduced when the supporting portion (12) is in an unrestrained state, and the diameter of the contact portion is increased when the supporting portion is in an urged state.

Response to Amendment

Art Unit: 3731

3. Applicant's arguments with respect to claims 21-22 have been considered but are moot in view of the new ground(s) of rejection. Applicant is asked to please refer to the modified prior art rejection above where examiner addresses applicant's concerns regarding prior art rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X Nguyen whose telephone number is (703) 305-4898. The examiner can normally be reached on M-F (8-4.30 P.M).

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3731

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Victor X Nguyen
Examiner
Art Unit 3731

Vn *✓*
August 6, 2004



JULIAN W. WOO
PRIMARY EXAMINER